



THE CITY OF NEW YORK
LAW DEPARTMENT
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May 16, 2022

VIA ECF

Honorable Katharine H. Parker
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: Amaury Urena v. City of New York, et al., 22-CV-01189 (VEC)(KHP)

Your Honor:

I am a Senior Counsel in the office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York and the attorney assigned to the above-referenced matter.¹ I write on behalf of defendant City to request a sixty-day extension of time, from May 31, 2022 to August 1, 2022, for defendant City to answer or otherwise respond to the Complaint, and an adjournment of the Initial Conference from June 13, 2022 to a date and time convenient for the Court after the City has responded to the Complaint. This office also requests the Court grant, *sua sponte*, a commensurate enlargement of time for Captain Pine and Captain Clarke to answer or otherwise respond to the Complaint. This is the first such request. This office has not been able to ascertain plaintiff's position on this request as he is presently incarcerated.

By way of background, plaintiff, who is proceeding *pro se*, is alleging, *inter alia*, that he was subjected to excessive force, deliberate indifference, and failure to provide medical care in connection with incidents that occurred on January 7, 2022; January 8, 2022; and January 14, 2022 in DOC custody. (See ECF No. 2). Plaintiff filed this lawsuit on February 11, 2022. (See *id.*). On March 8, 2022, the Court ordered this office to identify the unidentified individuals referenced in plaintiff's complaint and provide their identities and badge numbers, if appropriate,

¹ This case has been assigned to Assistant Corporation Counsel Victoria Carballo, who is presently awaiting admission to the Bar and is handling this matter under supervision. Ms. Carballo may be reached directly at (332) 323-0803, or by email at vcarball@law.nyc.gov.

to Plaintiff within 60 days. (See ECF No. 7). This office requested an extension of time to respond to the Court's Valentin Order, which the Court granted; this office's response is due July 5, 2022. (See ECF Nos. 15, 16). On March 18, 2022, Captain Pines and Captain Clark waived service, and on March 31, 2022, the City of New York waived service. Their answers are currently due May 17, 2022 and May 31, 2022, respectively. (See ECF Nos. 12, 14).

This extension of time is necessary for several reasons. Presently, this office is awaiting pertinent documents from the Department of Correction regarding plaintiff's allegations. This office is also waiting for signed medical releases from plaintiff that will permit us access to his medical records. This office is unable to adequately investigate plaintiff's allegations, and answer on behalf of defendant City, until such time we have received the requested documents. As such, this extension of time should allow defendant City to fulfill its Rule 11 obligations and respond to the Complaint.

Additionally, this office is requesting Captains Pine and Clarke be afforded a corresponding extension of time to respond to the Complaint, as well. This enlargement of time would allow this office time to obtain the captains' employee records and make determinations as to representation, and fulfill our Rule 11 obligations. See N.Y. Gen. Mun. L. § 50-k; Mercurio v. City of N.Y., 758 F.2d 862, 854-65 (2d Cir. 1985) (quoting Williams v. City of N.Y., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (stating that the decision to represent individual defendants is made by the Corporation Counsel as set forth in state law)). As this office has not discussed representation with Captains Pine and Clarke, this request for an extension of time is not made on their behalf. However, in the interest of judicial economy, we hope that the Court will, *sua sponte*, extend their time to respond in accordance with defendant City.

Therefore, defendant City respectfully requests the Court grant a sixty-day extension of time, from May 31, 2022 to August 1, 2022, for defendant City to answer or otherwise respond to the Complaint and this office also requests the Court grant, *sua sponte*, a corresponding enlargement of time for Captain Pine and Captain Clarke to answer or otherwise respond to the Complaint. Defendant City further requests an adjournment of the Initial Conference from June 13, 2022 to a date and time convenient for the Court.

Thank you for your consideration herein.

Respectfully submitted,

/s/

John Schemitsch

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Special Federal Litigation Division

cc: **VIA FIRST-CLASS MAIL**
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